

IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

LARRY CALDWELL, )  
 )  
 Plaintiff, )  
 )  
 v. ) CIVIL ACTION NO. 2:06-CV-0207-WKW-CSC  
 )  
 ANTHONY CLARK, MILLARD H. )  
 McWHORTER & ANNette CAIN, )  
 )  
 Defendants. )

**MOTION REQUESTING RECOMMENDATION OF DISMISSAL  
OR ENTRY SUMMARY JUDGMENT**

Come now the Defendants, Millard H. McWhorter, M.D. and Annette Cain (erroneously designated in the Complaint as "Anette Cain"), and hereby move this Court to recommend dismissal or entry of summary judgment their favor. As grounds for said motion, Defendants hereby set down and assign the following:

1. On March 8, 2006, this Court entered an Order for Special Report. Defendants Cain and McWhorter filed their Special Report and Answer on May 16, 2006. At that time Defendants Cain and McWhorter requested the court treat their Special Report as a motion for summary judgment.
2. On May 19, 2006, this Court entered an order requiring the plaintiff to file a response by June 6, 2006. That order cautioned the plaintiff that failure to respond would

be treated by the court as abandonment of the claims and result in a recommendation that this case be dismissed.

3. The plaintiff has failed to respond to the Defendants' Special Report.

**WHEREFORE**, Defendants requests the Court recommend dismissal or recommend their motion for summary judgment be granted.

Respectfully submitted,



Daniel F. Beasley  
Robert N. Bailey, II  
Attorneys for Defendants

LANIER FORD SHAVER & PAYNE P.C.  
200 West Side Square, Suite 5000  
P.O. Box 2087  
Huntsville, Alabama 35804  
(256) 535-1100

**CERTIFICATE OF SERVICE**

I hereby certify that on this the \_\_\_\_ day of April, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, and I hereby certify that I have mailed by United States Mail, postage prepaid, the document to the following non-CM/ECF participant:

Larry Caldwell  
Covington County Jail  
290 Hillcrest Drive  
Andalusia, AL 36420

  
Of Counsel

[yr]\WFS\SQL\CPShare\CPWin\HISTORY\060829\_0001\16C3D.30